

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ERIC MULLINS,

Plaintiff,

Case No. 3:10-cv-404

vs.

Judge Thomas M. Rose

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Magistrate Judge Michael R. Merz

Defendant.

ENTRY AND ORDER OVERRULING MULLINS' OBJECTIONS (Doc. #17) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS ; ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #16) IN ITS ENTIRETY; REMANDING THIS MATTER TO THE COMMISSIONER FOR FURTHER ADMINISTRATIVE PROCEEDINGS AND TERMINATING THIS CASE

Plaintiff Eric Mullins ("Mullins") brought this action pursuant to 42 U.S.C. § 405(g) for judicial review of the partially unfavorable decision of the Defendant Commissioner of Social Security (the "Commissioner") regarding his application for Social Security disability benefits ("SSD"). Seven months after the Commissioner filed his answer and about three months after Mullins filed his Statement of Errors, the Commissioner filed a Motion for Voluntary Remand. (Doc. #13.)

On August 12, 2011, United States Magistrate Judge Michael R. Merz entered a Report and Recommendations (doc. #16) recommending that the Commissioner's Motion for Voluntary Remand be granted. Mullins subsequently filed Objections (doc. #17) and the Commissioner

responded to Mullins' Objections (doc. #18). This matter is, therefore, ripe for decision.

The Commissioner has moved the Court to enter an order and judgment reversing the Commissioner's final decision in this matter with remand to the Commissioner for the purpose of conducting further administrative proceedings and issuing a new decision. Mullins opposes the Commissioner's Motion arguing that the matter should be remanded for the payment of benefits.

Based upon the reasoning and citations of authority set forth in the Magistrate Judge's Report and Recommendations (doc. #16) and in Mullins' Objections (doc. #17) and the Commissioner's Response (doc. #18), as well as upon a thorough de novo review of this Court's file, including the Administrative Transcript, and a thorough review of the applicable law, this Court adopts the aforesaid Report and Recommendations in its entirety and, in so doing, grants the Commissioner's Motion for Voluntary Remand. Further, Mullins' Objections to the Magistrate Judge's Report and Recommendations are overruled. Finally, the captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and ORDERED in Dayton, Ohio, this Nineteenth Day of September, 2011.

s/Thomas M. Rose

JUDGE THOMAS M. ROSE
UNITED STATES DISTRICT COURT

Copies furnished to: Counsel of Record